

1 the back-up alarms was up by the ears of the drivers, and  
2 I had them all put into the counterweights, but the --

3 Q. Why did you do that?

4 A. Because with that up in the ear area, it was  
5 driving the drivers nuts. I mean it's like, oh, my gosh,  
6 Cork, this thing's right in my ear.

7 Q. Did you ever have any instances where the  
8 back-up alarm was intentionally disabled by the operators  
9 or other employees?

10 A. No, but that's what I was worried about, where  
11 somebody would cut the wire or something like that so it  
12 wouldn't be, you know, sound. In fact, what I had to  
13 watch one time, they sent a demo truck in, and the  
14 flasher, okay, on the back was quite large, larger than  
15 most I've ever seen on forklifts, and they had made a  
16 cover like, you know, to cover it so it wouldn't be  
17 flashing. Well, you know, I removed the cover. I didn't  
18 see nobody else try to put a cover on it, but I also  
19 brought that up when they picked the truck up to take it  
20 out of the plant, because that was just a demo, you know,  
21 guys, that's a little overkill, and they're like yeah, I  
22 know, Cork, it's a new truck. We didn't like it either,  
23 but this is the demo we had to send to you.

24 Q. The recertification ride that you seem to recall  
25 with Bob Francia, do you know or do you recall if there

1 was an emphasis on that recertification? You said you  
2 would emphasize a certain portion if you knew why he was  
3 sent to you.

4 A. Right, right, and from what I had gathered then  
5 with Bob, like I say, it was as far as knocking some cans  
6 down. They got it, Will, they got it shrinkwrapped now,  
7 which has really helped a lot. It keeps the cans. You  
8 know, before the shrinkwrap, it was real easy to spill  
9 loads, and if you heard somebody over here with a coal  
10 shovel and a dumpster, you knew they've put cans down.  
11 And it's happened to the best of my drivers through the  
12 years too.

13 I mean so when you hear somebody say, oh, man,  
14 Cork, he's got a mess over there to clean up, and most of  
15 them have to clean it up on their own time. They've got  
16 to on their break or whatever get it cleaned up, but they  
17 work, it works like a domino effect sometimes. If they  
18 miss that first, when they get the forks in there, if they  
19 get that first one, tilt it too far, especially with no  
20 shrinkwrap, it keeps on knocking cans down.

21 Q. So to the best of your recollection, you think  
22 Bob was there because he had knocked some cans over?

23 A. Yes, yes.

24 Q. Do you recall ever being told that Bob almost  
25 struck one or more employees?

1 Q. Okay. So you're pointing to the roof of the  
2 covered dock?

3 A. Yes.

4 Q. Saying that there are domes?

5 A. They've got domed mirrors.

6 Q. Were those there at the time of this accident?

7 A. No, because this was because of the height of  
8 our new boxcars that we've got out there, no.

9 Q. You said you had the OSHA regulations, the  
10 Portman training, the model truck, and just generic  
11 information on weight, size, and specifications for sample  
12 fork trucks. Do you have any other reference material or  
13 information that assists you in training these folks in  
14 your library?

15 A. Yes. It's called the library. What it is, this  
16 Portman, when I graduated, this book, and I'd be glad to  
17 show you, just any area that I need to look up at, it's  
18 all in that book as far as being able to be certified as a  
19 trainer to where I can turn and get the information that I  
20 need. It's a well put together book.

21 Q. What besides that?

22 A. And again, like they told us there too, that  
23 like an individual comes to me now, a new employee, says  
24 Cork, I've already got my license. That's fine. That's  
25 good. You keep that in your pocket, because you're going

1 A. Yes, yes. Like I say, it's a deadly weapon.

2 Q. And you knew that before this ever happened to  
3 Jake?

4 A. Anybody that's ever drove a forklift, that  
5 should be automatic to realize what kind of danger you can  
6 cause to product or personnel. Just running over a  
7 person's toe with a 10,000-pound truck, I don't even care  
8 if you've got safety shoes on, you've got a good chance of  
9 that plate cutting your toes off.

10 Q. An operation of fork truck contrary to the safe  
11 operating procedures increases the probability that you're  
12 going to hurt somebody?

13 MR. BLACK: Do you understand the question?

14 THE WITNESS: No. Will, say it again.

15 BY MR. ALLEN:

16 Q. If an operator drives the truck contrary to  
17 normal, safe procedures --

18 A. Okay.

19 Q. -- does that increase the probability that  
20 they're going to injure someone?

21 A. Definitely.

22 Q. Was there any procedure besides the check ride  
23 or recertification if someone brought a violation to your  
24 attention and you had to recertify the driver --

25 A. Right.

1 Q. Besides the recertification ride that you seem  
2 to recall where he lost a load of cans --

3 A. Was over some cans that he had spilled.

4 Q. -- do you recall any other problems or concerns  
5 that you had or that were brought to your attention about  
6 Bob prior to his striking my client?

7 A. No.

8 Q. Did you ever hear that Bob almost struck two  
9 individuals?

10 A. No. No.

11 Q. Had you been told that, would that be  
12 justification for a recertification?

13 A. Yes, yes.

14 Q. Were you ever told that Bob drove a fork truck  
15 off the dock?

16 A. No, no.

17 Q. Had you been told that, would that be  
18 justification for recertification?

19 A. Definitely, definitely.

20 Q. Had you ever been told that Bob almost struck  
21 another individual separate from the first two?

22 A. No.

23 Q. Would that be --

24 A. Definitely.

25 Q. -- justification for recertification?

1 A. Yes, yes.

2 Q. Had you ever been told that Bob struck some type  
3 of a valve in some portion of the plant and damaged it?

4 A. No.

5 Q. Had you been told that, would that be  
6 justification for recertification?

7 A. Definitely.

8 Q. As the delegated, authorized trainer for fork  
9 trucks, did you expect management to bring any such  
10 incidents to your attention so that you could address the  
11 safety concerns that those posed?

12 A. Should have been.

13 Q. And if management was aware of those instances,  
14 in order to do your job effectively, you relied on them to  
15 tell you those things?

16 A. Right. And that's communication I know we have  
17 now with Bway, it's been -- in fact the safety lady,  
18 Roseanne, she'll call me and say Cork, we had a little  
19 incident last night. This individual, I want this  
20 individual retrained, and let me know, you know, what you  
21 think, you know. Yes, this is the procedure that should  
22 take place. And then again --

23 Q. I get the impression that you think that the  
24 company learned the hard way by Jake's incident?

25 MR. BLACK: Objection, but go ahead and answer

1           Where that driver that's with him, he gives him  
2           one line. Once he gets that line, he gives him two lines.  
3           Once he says I've got this, gives him three, until all of  
4           a sudden he's got all the lines, then you've got a  
5           different ball game. He's looking and you say hey, I can  
6           take it from here.

7           BY MR. ALLEN:

8           Q. But the only concern that was ever brought to  
9           you by the company management with regard to Bob Francia  
10          was the time that he lost the cans?

11          A. Yes, I mean that was, yes.

12          Q. Based on your training and observation of Bob,  
13          did he seem to be always rushing around in a hurry?

14          A. Bob was a flighty person. I mean, you know,  
15          we're all different in our ways.

16          Q. Did you have enough observation of his training  
17          in actual work to form an opinion as to his capability to  
18          operate a fork truck safely?

19          A. Okay. I mean like I say, he, you know, he was  
20          able to pass both his written and his driving test, and I  
21          had to observe him before taking cans down and hitting his  
22          horn and backing up and doing things, you know, the right  
23          way, but again, you know, we're all human. We all make  
24          mistakes.

25                I've seen some of my best drivers sometimes

1 I said, I know, you know. You say Cork, my gosh, look how  
2 many times I hit, again, you don't have to hang on the  
3 thing, but that Toyota horn is one of the best there is  
4 out there, and that sound, like I say, just a little hit  
5 on that horn and you can hear it, and I always tell them,  
6 if I hear somebody coming up on me, because again, in that  
7 facility, you know, it's not -- some places are able to  
8 give you more room in aisleways, but again, those  
9 aisleways, when you're backing out, there's -- you've got  
10 a blind spot until your counterweight is actually in the  
11 main row before you can see.

12 Q. Sounds like based on your statements that before  
13 Jake's incident, you were aware of many near misses or  
14 close calls?

15 A. Sure, through the years, yes.

16 Q. And most of those came when a trucker either  
17 failed to honk their horn or the pedestrian had too much  
18 on their mind and walked into the path anyway?

19 A. Right.

20 Q. Would you say the vast majority of those close  
21 calls were the failure to honk the horn as opposed to the  
22 pedestrian who had too much on their mind?

23 A. Most of it is honking the horn, yes. That's  
24 usually where, you know, it falls into the spot where the  
25 driver didn't honk his horn and let them, you know, let



1 somebody know.

2 Q. So the failure to honk your horn dramatically  
3 increases the possibility of a close call?

4 A. Yes, that horn is very, very important. In  
5 fact, when somebody calls me, this morning, good example,  
6 Cork, number six truck, horn don't work. Boom, right  
7 then. Jimmy, he was just leaving the plant, because I  
8 didn't have anything, everything was up and running.  
9 Jimmy, get back. Number six horn down. I'm on my way  
10 back.

11 Q. Jimmy's your Toyota guy?

12 A. Yes, he's my mechanic. Real good mechanic. And  
13 again, I, you know, it's so funny too, Will, being a  
14 trainer and going to get me lumber at Furrow's and the  
15 different places, I can't get over how many places out  
16 there don't even still have forklift training.

17 I mean I had -- I have "authorized forklift  
18 operator" on one of my hats, and I was at the place there,  
19 and the guy had a Hyster, and he's getting ready to load.

20 He says, "Are you a trainer?"

21 I said, "Yes, I am."

22 He says, "Boy, they need you here, man."

23 And this is the thing. And you've probably, you  
24 know, have seen it yourself. And again, I've --

25 Q. Unfortunately, I have. I want to go back to

1 backing and the procedures that you recommend or  
2 recommended at the time of Jake's injury and before. You  
3 have your recommendations. You said you've updated your  
4 tests and maybe added some new stuff, but as far as the  
5 general procedure to be followed to safely back one of  
6 these fork trucks, has that changed --

7 A. No.

8 Q. -- at all since you took over the training  
9 position?

10 A. No. Honk your horn and look over both your  
11 shoulders.

12 Q. Okay. That's where I was getting. You don't  
13 simply rely on the mirrors?

14 A. No.

15 Q. You look over your right shoulder and your left  
16 shoulder?

17 A. Yes.

18 Q. Do you just do it once and then honk your horn?  
19 Do you honk your horn, then look? Is there any order?

20 A. Honk your horn and then look, and the reason  
21 that horn, like I say, that's usually giving anybody  
22 that's going to be coming from the left or the right,  
23 that's -- and like I say, with that Toyota horn, I know  
24 myself, I'm standing there, and I know I've got a forklift  
25 in that bay that's getting ready to back out of there.

1 be able to see another person, another -- the rear of  
2 another truck? I'm assuming because of the height of the  
3 counterweight, there is some blind spot behind the  
4 vehicle?

5 A. No, no.

6 Q. There's no blind spot?

7 A. No blind spot.

8 Q. So looking over both shoulders, you would be  
9 able to see anything to the rear of that vehicle?

10 A. Definitely. Except, now, let's say I've got  
11 something very low that's right around my truck at the  
12 bottom, I mean like a --

13 Q. A small pallet of cans?

14 A. Yes, yes, that could -- yeah. But how did I get  
15 in and somebody put those there without -- I guess  
16 that's -- if you've done one in the row, there shouldn't  
17 be anything.

18 Q. Let me see if I can clear that up for you. The  
19 blind spot, you see these trucks driving down the highway,  
20 if you can't see my mirrors, I can't see you. If I am in  
21 a -- one of these new Minis, I couldn't even fit in one,  
22 but let's say I fit in one, and I'm right on that truck's  
23 ICC bumper, the under ride bumper.

24 A. Okay.

25 Q. He's probably not going to be able to see me --

1 witnessed when I seen that kid crawl up to let him know  
2 that he was in that box, I will never forget. And how, I  
3 mean just a couple of inches, this would have been a  
4 driver that would have killed somebody, and he would have  
5 never -- he'd have had to live with that.

6 Q. Do you know if that was ever mentioned to  
7 management or was a manager present?

8 A. Oh, gosh, I was so new back then, Will. That  
9 was back in the sixties. I just started, and I mean  
10 again, there was -- and that's what I have to say, through  
11 the safety programs and the licensing now, it's great.  
12 Sure, we're all human, there's still mistakes going to be  
13 made in the forklift world, but again, sometimes it has to  
14 take a situation where that person witnesses just how  
15 close they came to hurting somebody before it wakes them  
16 up.

17 Q. I think earlier on, and I may be misquoting you,  
18 correct me if I'm wrong, I think you referred to a fork  
19 truck as like operating a loaded gun?

20 A. You got it.

21 Q. And you learned that over your years of  
22 experience from witnessing things like you just referenced  
23 with the forks and the kid's head?

24 A. Yes.

25 Q. As a trainer designated by management, do you

1 nervous than somebody else. If she can't do it, then  
2 she's off there, you know. No, it's like I need to bring  
3 her back in or I need more time to be with them, and  
4 there's nothing more rewarding than somebody saying when  
5 you've got them finally to where they feel comfortable,  
6 boy, Cork, you've got patience.

7 Q. Say you retrained them on that third incident,  
8 recertified them, and they had another incident where they  
9 drove a truck off the dock. Is there a point at which --

10 A. Yes.

11 Q. -- you just pull the plug?

12 A. Sure. In fact, at the point we could all maybe  
13 already have come from the foreman or personnel or the  
14 safety director, of Cork, we're -- we want it to be shown  
15 in your file that that person's license was taken on this  
16 date. We don't want that person back on the truck no  
17 more.

18 Q. Would you agree based on your position as the  
19 trainer designated by management, that whether it's your  
20 call or their call depends on who is armed with that  
21 information about the incidents?

22 A. Say that again, Will.

23 Q. You've said that they have never refused you a  
24 recommendation?

25 A. Right, right.

1 working with Steve, and he was able to do the job, okay.

2 Q. Are the fives and tens any less dangerous than  
3 the thirty?

4 A. The fives and tens are less dangerous in the way  
5 of as far as hitting an object or running over somebody,  
6 because you're talking a 30,000-pound truck compared to  
7 let's say a 5,000-pound truck.

8 Q. Let's say you're pinned between a fixed object  
9 and a 5,000-pound truck.

10 A. You've been hit with a 30,000-pound  
11 counterweight truck with five?

12 Q. Well, no. I'm saying are the injuries from a  
13 5,000-pound truck pinning you between a fixed object going  
14 to be that much less than a 30,000?

15 A. Counterweights on a five, thirty, don't matter.  
16 You usually have bought the farm.

17 Q. I want to just hit some of the highlights. Now,  
18 you've said that these are not your training materials?

19 A. No. I mean there's --

20 Q. You incorporate some of the theories?

21 A. There's a lot of, yes, there's a lot in there  
22 that has. I mean there's --

23 Q. I'm going to refer to B-00527, trucks must not  
24 be driven up to anyone standing in front of a fixed  
25 object. That's a theory that you profess in your

1 training?

2 A. Okay. We use fire extinguishers. We basically  
3 state the things that you wouldn't pull.

4 Q. What do you mean you use fire extinguishers?

5 A. You don't want to park in front of fire  
6 extinguishers. You don't want to park in front of the  
7 different, like fire extinguishers, smoking areas.

8 Q. Anywhere where pedestrians are likely to be, you  
9 don't want to drive up to those areas?

10 A. Well, and also too, you have like where we have  
11 the places where we park the trucks where they go on  
12 breaks and things like this, there's still pedestrians  
13 around there, but again, sometimes your different  
14 facilities don't have the room that others have where they  
15 can actually have a designated place that they can park  
16 the forklift trucks.

17 What we basically try to do is like in front of  
18 the UV lines, that right there on each side of the door,  
19 that's a place they can park the trucks when they go in on  
20 break, and there's still plenty of room for pedestrians to  
21 walk by and forklift trucks to travel.

22 Q. The LP storage rack area is a place where you  
23 expect a pedestrian, because there's going to be someone  
24 off the truck to change the tank?

25 A. Right. Right.